

REMARKS/ARGUMENTS

The Rejection requested that an abstract as required by 37 C.F.R. § 1.72(b) be provided on a separate sheet. An abstract has been included in compliance with 37 C.F.R. § 1.72(b) on a separate sheet. Furthermore, Applicant respectfully requests reconsideration of claims 1-3.

The Rejection rejected claims 5 and 6 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,637,321, issued to Moore, asserting that all the features of these claims are disclosed in the Moore reference. Applicant submits that the Rejection is correct, and hereby cancels claims 5 and 6. Due to the amendment of Claim 1, Applicant also hereby cancels claim 4.

The Rejection correctly presumed that the subject matter of the various claims was commonly owned at the time the inventions covered were made. Applicant notes the Rejection's advice to applicant of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made.

The Rejection rejected claims 1-6 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,637,321, issued to Moore, in light of U.S. Patent No. 5,384,149, issued to Lin. The Rejection asserted that "the separated and extracted cartilages are diced or otherwise comminuted by means known in the art ..." (Office Action page 4). Thus, the Moore reference teaches the dicing or comminution of previously separated and extracted cartilages (see col 2, lines 51-65). Applicant, in distinction, grinds poultry skeletons first, and then separates and extracts cartilages from other tissue (see Application, page 2, lines 15-20, page 7, claim 1). The Moore reference does not contain the limitation of Applicant's claim 1. In fact, Moore teaches away from Applicant's claim 1 because Moore teaches the extraction of cartilage first, with dicing second, compared to Applicant's invention, which teaches the grinding of the entire skeleton, including unextracted cartilage first, and then separation of the cartilage second.

The Rejection claimed that Moore also taught the dicing or comminution of separated and extracted cartilages into particles no larger than a dose in the amount of at least about 0.01 gram and preferably from about 0.1 to about 0.5 grams. The Rejection claimed that 0.1 to 0.5 grams is equal to 0.1 to 0.5 centimeters and as such the units recited in the reference is less than about 1 cm.

Notwithstanding the Rejection's assertions, Applicant submits that there is no support in the reference to equate mass with size. The Rejection cites col. 2, lines 24 to 62 of Patent No. 5,637,321 for support that grams is equivalent to centimeters. However, there is no support in the cited text, nor anywhere else in the reference, to equate grams with centimeters. Grams is a unit of mass, while centimeters is a unit of distance and/or size. At most, one cubic centimeter of water weighs one gram. Thus, Moore does not teach the limitation of particle size being less than about one centimeter. At most, Moore teaches the mass of particles, which is different than the size of particles.

The Rejection further asserts that the Moore references teaches a blending process which includes mixing and/or blending of the cartilages by using a blender, and that the use of a blender is an indication that the extracted cartilage is processed in a separating vessel having an ascending vertical component. The Rejection cites col. 3, example 1 of Patent No. 5,637,321 in support of this assertion.

Notwithstanding the Rejection's assertion, Applicant submits that there is no support in the reference for an ascending vertical component. The Rejection is in error when it cites col. 3, example 1 because there is no example 1 in column 3 of the Moore reference. Furthermore, even if the Rejection meant column 4, example 1, there is no reference, express or implied, to an ascending vertical component. At most, the Moore reference teaches a blending process that blends previously

separated and diced cartilage into smaller pieces order to minimize variations of sample size and to allow for uniformity of antigen levels (col 2, lines 64-67, col. 3, lines 1-4).

In distinction to the Moore reference, Applicant discloses a grinding process that grinds an entire fowl skeleton into particles of less than about one centimeter in size (Application, page 2, lines 27-29). This ground material contains both cartilage and skeletal tissue. A separating liquid is then used to separate the cartilage from the skeletal tissue. What is essential is that the separating liquid should be able to flow freely (Application, page 2, lines 30-34, page 3, lines 1-4, page 7, claims 1 and 2). The separating liquid flows from the vessel to an overflow outlet, which collects the cartilage in a sieve (Application, page 3, lines 27-32). In distinction, the Moore reference does not teach nor disclose a flowing separating liquid having an ascending vertical component. In fact, Moore teaches away from Applicant's device, as the blending of cartilage tissue in a blender does not contain a free flowing liquid that that flows out of the vessel, but instead contains a liquid that remains in the vessel.

Finally, the Rejection asserts that the secondary reference of Lin discloses the use of water or salt solution as a separating liquid, and that this reference, in combination with Moore, renders Applicant's claims obvious under 35 U.S.C. § 103(a). Notwithstanding the Rejection's assertion, Applicant submits that the Lin reference does not teach, suggest, or disclose the use of water or salt solution as a separating liquid for cartilage. At most, Lin discloses the use of a salt solution to chemically dissolve salt soluble proteins in order to separate the salt soluble protein from fat and non-salt soluble tissues (col. 2, lines 32-44). Applicant, on the other hand, claims the use of an edible salt solution or an edible non-salt solution, such as water, to physically separate the cartilage tissue from the non-cartilage bone tissue (Application page. 7 claim 3). Thus, Applicant's physical

use of a liquid to separate cartilage from bone tissue is not disclosed, taught, or suggested by the Lin reference, either alone or in combination with the Moore reference.

Applicant therefore submits that all outstanding rejections to the pending claims have been overcome by the foregoing remarks, and that each of the pending claims are in condition for allowance. Therefore, reconsideration and favorable action are hereby respectfully requested.

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Respectfully submitted,


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